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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Petition for Relief from Unjust and  
Unreasonable Discrimination in the  
Deployment of Video Dialtone Facilities

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RM-8491

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COMMENTS

The Council of 100 ("Council") respectfully submits comments in response to the Federal Communications Commission's Public Notice regarding the above-styled Petition for Relief filed on May 23, 1994, by the Center for Media Education, Consumer Federation of America, The Office of Communication of the United Church of Christ, the National Association for the Advancement of Colored People and the National Council of La Raza ("Petitioners").

I. Introduction

In 1992, the Federal Communications Commission ("Commission") modified its rules to permit telephone companies to offer video dialtone service.<sup>1</sup> The Commission ruled that the entry of telephone companies into the video marketplace would foster consumer choice and competition among video programming providers, and accelerate deployment of advanced telecommunications networks. The Commission would use the Section 214 application process to determine whether proposals to construct and operate video dialtone

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<sup>1</sup> Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, Second Report and Order, Recommendation to Congress, and Second Further Notice of Proposed Rulemaking, 7 FCC Rod 5781 (1992).

facilities were in the public interest.

Video dialtone's promise of a vast array of interactive services will profoundly impact teaching and learning, health care delivery, as well as promote entrepreneurial and employment opportunities for those with access to those services. As Commission Chairman Reed E. Hundt has noted, "Without attention to issues affecting access, however, our already divided communities may shatter. If these networks do not reach into every community and bring us together, they could end up dividing us further—leaving whole segments of our country without the skills and information necessary to prosper in our post-industrial economy."<sup>2</sup>

The challenge facing the Commission is to balance the advocacy community's goal of enhanced access to video dialtone service at each phase of deployment and the private sector's goal of a streamlined and expedited Section 214 application review process with the Commission's mandate to safeguard and protect universal access to all telecommunications services, including video dialtone.

## **II. Petitioners' Allegations Are Serious And Warrant Expedited Review**

The allegations made by Petitioners go to the Commission's mandate to safeguard and enhance universal service as that concept is evolving within the context of the national information infrastructure. The Petitioners have raised legitimate concerns that in the absence of appropriate regulatory intervention, market decisions alone may have the unintended consequence of widening the gap between information haves and have-nots.

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<sup>2</sup> First Annual Action for Children's Television Lecture on Media and Children, Harvard Graduate School of Education, Feb. 28, 1994.

Indeed, public policy issues as potentially transforming to our society and national economy as universal access to telelearning, telemedicine and telecommuting ought not to be determined on an *ad hoc* basis predicated on the parochial interests of those applying to offer telecommunications services to the public. Rather, the operative criterion in reviewing such applications should be "trust but verify."<sup>3</sup>

The Commission must verify that the construction and operation of video dialtone facilities meet the public interest standard without imposing burdensome regulations that will impede deployment of advanced telecommunications networks and stifle economic growth. Under Section 202(a) of the Communications Act<sup>4</sup> the Commission already has the authority to verify whether a Section 114 applicant's proposed deployment plan constitutes unreasonable discrimination on the basis of race, ethnicity, income or locality in the provision of telecommunications services. In order to make an informed and expedited determination of compliance with Section 202(a), there needs to be established uniform filing requirements that will provide both the Commission and the advocacy community with sufficient data to verify that the public interest standard has been met.

### III. Conclusion

The Council urges the Commission to issue the requested policy statement enunciating its commitment to the goal of universal video dialtone service and nondiscriminatory deployment at each phase of construction, and an appropriate

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<sup>3</sup> Statement of Commissioner Sherrie P. Marshall, July 16, 1992, Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, CC Docket No. 87-266.

<sup>4</sup> 47 USC § 202(a).

promulgation affirming that Section 202(a) of the Communications Act prohibits discriminatory deployment of video dialtone facilities. The goals of enhanced universal access and a streamlined Section 214 application review process are not mutually exclusive. However, they do require careful balancing by the Commission to ensure that the initial rollouts of video dialtone facilities are nondiscriminatory as to race, ethnicity, income or geographical location. Universal access to the educational, economic and civic benefits of advanced telecommunications services will foster economic growth and innovation, as well as strengthen our democratic ideals and processes.

Respectfully submitted,

COUNCIL OF 100

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